

1 UNITED STATES DISTRICT COURT  
 2 EASTERN DISTRICT OF NEW YORK  
 3 ----- X  
 4 SPECIAL SESSION :  
 5 OF THE :  
 6 UNITED STATES DISTRICT COURT :  
 7 FOR THE :  
 8 EASTERN DISTRICT OF NEW YORK :  
 9 CELEBRATING THE LIFE OF :  
 10 JUDGE EUGENE H. NICKERSON :  
 11 UNITED STATES DISTRICT JUDGE :  
 12 1977-2002 :  
 13 : U.S. Courthouse  
 14 : Brooklyn, New York  
 15 : Special Session  
 16 : April 19, 2002  
 17 ----- X 4:30 p.m.

18 PRESIDING:  
 19 CHIEF JUDGE EDWARD R. KORMAN  
 20 and the Board of Judges  
 21  
 22 SPEAKERS: Senior Judge Jack B. Weinstein  
 23 Judge John Gleeson  
 24  
 25 \_\_\_\_\_  
 26 Andrew Irving, Esquire  
 27 Law Clerk, 1977-1978  
 28 Andrew Weissmann, Esquire  
 29 Law Clerk, 1984-1985  
 30 Elizabeth Sacksteder, Esquire  
 31 Law Clerk, 1988-1989  
 32 Lawrence Wu, Esquire  
 33 Law Clerk, 1999-2000  
 34 Mal Nickerson  
 35 Daughter of Judge Nickerson  
 36 Clerk of the Court: Robert C. Heinemann, Esquire  
 37 Court Reporter: Ronald E. Tolkin, RPR

RONALD E. TOLKIN, RPR  
 OFFICIAL COURT REPORTER

1 (Time: 4:40 p.m.)

2 MR. HEINEMANN: All rise.

3 This special session of the United States District  
4 Court for the Eastern District of New York is now open  
5 celebrating the life of Judge Eugene H. Nickerson, who graced  
6 the bench of the Eastern District from 1977 until 2002.

7 Chief Judge Edward R. Korman and the Board of  
8 Judges will preside.

9 CHIEF JUDGE KORMAN: Please be seated.

10 It is my distinct honor and pleasure to preside  
11 over this ceremony and to welcome here today, especially, the  
12 family of Judge Eugene Nickerson, his four daughters, Mal  
13 Nickerson, Lawrie Nickerson, Stephanie Nickerson, and Susan  
14 Nickerson Palmieri, and the other members of his family, my  
15 colleagues on the Eastern District bench, the Bankruptcy  
16 Judges, the Magistrate Judges, Judges of the Southern  
17 District of New York, the Court of Appeals, the Court of  
18 International Trade, as well as I think his successor as the  
19 Nassau County Executive, Mr. Suozzi.

20 The room today, the room in which we celebrate  
21 today the life of our beloved colleague Gene Nickerson is the  
22 one which we usually induct the Judges of our Court prior to  
23 their commencement of service.

24 When he was inducted, Judge Nickerson did not  
25 desire such a ceremony, a ceremony which Mayor Koch once

1 likened a Pentecostal service. Instead, he chose the brief  
2 informal ceremony in one of the regular Courtrooms with only  
3 his colleagues and a few members of the Court staff present.

4           Before he died, our colleague, Judge Nickerson gave  
5 instructions that there would be no eulogies at his memorial  
6 service. There is reason to believe that he would not have  
7 desired this ceremony today. Gene would have instead chosen  
8 to be remembered only by the great work of an extraordinary  
9 mind. So we owe some explanation for respectfully overruling  
10 his objection.

11           We are here today not simply because such  
12 ceremonies are traditional. We are here today because Gene  
13 was one of the Great Judges to sit on our Court. District  
14 Judges are the human face of the judicial branch that all  
15 those seeking justice encounter. Great District Judges are  
16 the ones who treat the parties before them, the poor as well  
17 as the rich, the lowly and the mighty with dignity, care, and  
18 respect. They are the ones who bring to the thousands of  
19 rulings they make, year in and year out, the judgment,  
20 intelligence, and good sense that are now found in the bound  
21 volumes of the Federal Supplement. They conduct their  
22 Courtrooms with dignity and decorum that one expects in a  
23 United States Court.

24           Gene was all of that and yet he was more. In the  
25 words of my colleague, Judge Dearie, he was in our experience

1 unique. The word mentor comes to mind, and not just to me  
2 but to the generations of the lawyers and the judges. More  
3 than anything else, he gave this place subtle. There was a  
4 conscience, humor, a sense of duty all wrapped in an entirely  
5 and an enormously generous person.

6           It is not just simply that it would not be right.  
7 It just simply would not be right to let him go without  
8 coming together to remember his life with us. There is also  
9 now a selfishness in our rejection of Gene's objection. All  
10 of us who were close to Gene simply want to share the joy  
11 that comes from coming together collectively to remember his  
12 life.

13           Our first speaker is our former Chief Judge, who  
14 served with Gene for the entire 25 years that Gene was with  
15 us, who was his friend and colleague for many years before,  
16 Judge Jack B. Weinstein.

17           (Whereupon there was applause.)

18           JUDGE WEINSTEIN: My dear friends, it is nice to  
19 see so many of you here.

20           For the last 25 years Gene Nickerson personified  
21 the ideal Federal Judge. Your presence and individual  
22 memories celebrate the unique affection and respect that we  
23 had for him far more eloquently than could any of my words.

24           Our high regard for Gene is based on his intellect,  
25 his humor, and his empathy, encapsulated in the grace of a

1 lovely man.

2 His acumen was reflected in honors at Columbia Law  
3 School; clerkships for Gus Hand, Chief Justice Stone and  
4 Justice Black; a succession of litigating roles culminating  
5 in the leading firm that he helped organize of Nickerson,  
6 Kramer, Lowenstein, Nissen, Kamin & Soll, of which Judge Bert  
7 Harnett and Judge Marvin Frankel were also members, his  
8 reorganization of Nassau County's laws and administration;  
9 and his New York Law Commission membership. The background  
10 he brought to the Court in all branches of every level of  
11 government was unsurpassed.

12 Many of us were particularly charmed by his sense  
13 of humor. It lifted him and us over the rough spots. Those  
14 who regularly watched his mugging, deadpan put-ons, and  
15 arched eyebrow pretension-puncturing, knew that beneath the  
16 surface coolness was a suppressed clown.

17 When our Judges would go to his office smarting  
18 over some legal contretemps seeking advise, we'd leave  
19 laughing over Gene's funny stories and his cheery wave. "Let  
20 it drift astern," he'd advise, and so we would.

21 It was, most importantly, his empathy, compassion  
22 and emotion that made Gene a great person and a great Judge.

23 At law school he regularly drove way out of his way  
24 to pick up a fellow student who couldn't use the subway. His  
25 own battle with polio had perhaps predisposed him to

1 understand those needing special help. Under a Harvard  
2 coach, he practiced squash incessantly, substituting  
3 adroitness and skill for the power that polio had taken from  
4 him, and he became Captain of the team.

5 In private conversation his burning sense of  
6 injustice sometimes broke through as, for example, his  
7 outrage at the unnecessary cruelty to individuals of some  
8 guideline sentencing.

9 He was offended by the hypocrisy of the "Don't Ask,  
10 Don't Tell" rules. He bluntly characterized that policy as  
11 "Orwellian," calling the military's claim that homosexuals  
12 threaten "unit cohesion" "a euphemism for catering to the  
13 prejudices of heterosexuals."

14 In our jaded, claptrap infused world, Gene was the  
15 genuine article. All of us will miss him as a guide and as a  
16 friend. He helped each of us keep from weeping over life's  
17 injustices by laughing at its incongruities.

18 (Whereupon there was applause.)

19 CHIEF JUDGE KORMAN: Our next speaker is our  
20 youngest colleague, who appeared before Judge Nickerson for  
21 many years as an Assistant United States Attorney, and who  
22 developed a close and warm personal relationship with him  
23 after he joined the bench.

24 Judge John Gleeson.

25 (Whereupon there was applause.)

1           JUDGE GLEESON: This says "Jack Weinstein, do not  
2 remove." I will leave it right here.

3           Some of my friends asked me if I was nervous today  
4 because I was following Jack Weinstein. I said, "of course  
5 not. I follow him all of the time." If anything, the  
6 opposite is true today, because it is the only time I ever  
7 followed him without having to worry about getting reversed.

8           I begin today with a little levity deliberately.  
9 The Nickerson family we warmly welcome here today has lost a  
10 husband, a father, a brother, a grandfather. Our Court  
11 family has lost a dear friend, a mentor, a great Judge. Our  
12 community has lost a public servant. If we choose to be sad  
13 today, we have a great deal to be sad about.

14           But to borrow one of the Judge's favorite phrases,  
15 "that's not useful." Besides, we are here to pay homage to a  
16 man who wasn't the least bit sentimental and was never  
17 maudlin.

18           I think you can all imagine the look of disdain  
19 he'd have on his very expressive face if he saw us all  
20 getting weepy here today. I hereby order those in front of  
21 me to stop their weeping. We will enjoy today. I am not  
22 taking any chances -- it's my little twist on Paschal's  
23 wager -- I am assuming that he is looking down on us right  
24 now. If he is, I intend to make him proud and not  
25 embarrassed or annoyed. If he is not, but he is ordering the

1 transcript, I want the record to reflect that I am wearing a  
2 white shirt.

3 Eugene Nickerson argued once in the Supreme Court  
4 of the United States. The argument occurred on November  
5 15th, 1949, in United States Ex Rel Eichenlaub versus  
6 Shaughnessy. He was only 31 years old. The issue was  
7 whether an Act of Congress that required the deportation of  
8 aliens upon conviction of certain crimes could be applied to  
9 persons who were citizens when they committed the crimes but  
10 were later denaturalized. The lawyers among us will  
11 recognize the issue as proof that there is nothing new under  
12 the sun.

13 During his argument, Judge Nickerson, "Nick" as his  
14 friends called him then, did what good lawyers do. He made  
15 persuasive arguments that were well grounded in the case law.  
16 As he was citing one case in particular the Chief Justice,  
17 Fred Vinson, interrupted his argument to point out that the  
18 other side was relying on the same case. "That is correct,  
19 Mr. Chief Justice," Nick responded. "You have opposite  
20 arguments on the issue" the Chief Justice continued. "The  
21 case can't support both of you." There was a pause while  
22 Judge Nickerson, then Nick, contemplated his response.  
23 "well, Mr. Chief Justice," he said, "it looks like you'll  
24 just have to read that case."

25 (Whereupon there was laughter.)

1 I hasten to add -- am I doing all right with this  
2 microphone? I hasten to add that of the hundreds of stories  
3 that he told me about his experiences, this is the only one  
4 that I brought up. I had asked him whether he ever appeared  
5 in the High Court. Fifty years later he was still annoyed  
6 with himself, because he had been a smart aleck to, of all of  
7 the people in the world, the Chief Justice of the Supreme  
8 Court of the United States.

9 He was at the time devastated by his own remark,  
10 and it obviously showed when he sat down. He received a  
11 consoling note later from Justice Black, whom he knew well  
12 from his days as a Law Clerk on the Court. "Don't worry  
13 about it," Black wrote. "All you did was say what the rest  
14 of us were thinking."

15 I begin with that story because it says so much  
16 about Gene Nickerson. That he would be so blunt in response  
17 to the Chief Justice's question would surprise no one who  
18 knew him well. He didn't beat around the bush. He didn't  
19 waste words. He took great care when writing his opinions to  
20 use short, declarative sentences that got right to the heart  
21 of the matter. Footnotes were forbidden. If it was worth  
22 saying, it went in the text. His rulings as a result were  
23 quite spare, and he was proud of that.

24 But his written opinions were downright gabby  
25 compared to his rulings from the bench. Just because a

1 lawyer would take a long time to make a particular point,  
2 argue a particular issue, Judge Nickerson didn't feel  
3 obligated to take a long time to rule on it. One word was  
4 generally sufficient. He made one concession to verbosity --  
5 he would take longer to say that one word than anybody else  
6 in the world. "De nied. Over ruled." He was decisive. He  
7 didn't mince words. He didn't feel a need to lard up the  
8 record with lengthy explanations for his decisions.

9           The story of his Supreme Court argument also  
10 reveals another thing that is equally significant about Judge  
11 Nickerson, and that is his sense of decorum. He was hard on  
12 himself half a century later, because he felt he had run  
13 afoul of the rule that ours is a dignified, respectful  
14 profession. He believed that to his core. He had an exalted  
15 view of the profession and the trial process, and he expected  
16 the lawyers to share that view. At the very least, he  
17 expected them to act accordingly.

18           He required everyone in the courtroom to be seated  
19 while the witness was being placed under oath. He didn't  
20 want anybody milling about, distracting the jurors. He  
21 wanted the jurors to appreciate the solemnity of the oath.  
22 He didn't permit lawyers to argue with witnesses or make  
23 comments on their answers. He felt strongly that lawyers  
24 should ask questions and that was it. No showboating, no  
25 flamboyance, no shouting, and no dominating the courtroom

1 with their answers. He was courteous to everyone. He  
2 expected lawyers to act like members of an honorable  
3 profession.

4 I learned all this firsthand in the trial that  
5 Chief Judge Korman made reference to. It was the trial that  
6 was really the exact opposite of what he thought trials  
7 should be. It was the seven-month Gotti trial that ended on  
8 Friday the 13th of March of 1987. It had to be his worst  
9 experience as a judge. If cases had subtitles, the one for  
10 that case would have been Lawyers Behaving Badly. It was  
11 seven months of the nastiest, most acrimonious litigation you  
12 will ever see in Federal Court. Lawyers slamming the  
13 indictment into the garbage pail in front of the jury,  
14 snarling at each other in Court, and accusing each other of  
15 crimes. At one point, he quashed on his own motion a defense  
16 subpoena for my wife's personnel file. It was ugly. It was  
17 also my first case. I didn't know any better. I remember  
18 thinking at the time, "gee, this is a little rough, but this  
19 must be how they do it." I looked back on it later, I  
20 appreciated more fully how grueling it must have been for  
21 him. As close as we got in later years, we never really  
22 talked about that case.

23 I learned in that case how he dealt with his  
24 temper. He had a temper. He was a very disciplined man, as  
25 many of you know. But lawyers behaving badly would make him

1 angry. When it happened, he would yank open this drawer that  
2 he had up on the bench with a big racket, and pull out a  
3 piece of cardboard and place it in front of him. He would  
4 stare at it for about ten seconds. Sometimes he would even  
5 do this at side bar, and we were right up next to him. I  
6 remember at times I would be craning my neck trying to see  
7 what was written on the other side of the piece of cardboard.  
8 I have been fortunate to sit in his courtroom in the past  
9 couple of months. Not long ago I opened a drawer looking for  
10 a pen, and I found this. It is the piece of cardboard. It  
11 says on it, "Don't get angry."

12 Now that I see what it says, it occurs to me that  
13 he always pulled it out a little too late. He was always  
14 extremely angry before he pulled it out. Anyway, it worked  
15 for him. I thought I would give it to his children in the  
16 hope that they can put it to equally good use.

17 That argument in the Supreme Court of the United  
18 States came at the beginning of an extraordinary career, that  
19 was part of a truly extraordinary life.

20 Judge Nickerson was a descendant of Presidents John  
21 Adams and John Quincy Adams. He was a very good athlete. In  
22 High School he was the quarterback on the football team. He  
23 was the Captain of the hockey team. At a Yankee game with  
24 him once he let slip, and I mean let slip -- as most of you  
25 know, he was utterly incapable of boasting -- he let slip

1 that he believed that he might have played professional  
2 baseball if he had not gotten polio when he was 17. He told  
3 me that he didn't think he had a good enough arm to play  
4 shortstop, but he felt he could play second base for the  
5 Yankees.

6 As Judge Weinstein mentioned, he conquered the  
7 polio that essentially destroyed his dominant right arm. You  
8 have heard what has now become really legendary. How he  
9 taught himself to play squash left-handed and became  
10 Harvard's best player and captain. He was a Kent Scholar at  
11 Harvard, an editor of the Law Review at Columbia. He clerked  
12 for Augustus Hand in the Second Circuit, and then with Chief  
13 Justice Harland Fiske Stone, a former Dean of Columbia Law  
14 School.

15 After his clerkship he practiced law. His ties to  
16 Gus Hand remained strong. Judge Hand appointed him in 1948  
17 to that immigration case that later brought him to the  
18 Supreme Court. Here is what the Second Circuit had to say  
19 about him at the time. "Because of the Appellant's poverty,  
20 the Court obtained through the Legal Aid Society the services  
21 of an attorney to present his case on appeal, and we wish to  
22 express our appreciation of the highly competent and helpful  
23 manner in which Mr. Nickerson has performed his gratuitous  
24 public service." It must have meant a great deal to him, as  
25 the panel that heard the case included the great Gus Hand

1 himself.

2           In July of 1952 FBI agents went to the Park Central  
3 Hotel in Manhattan on a tip that a wanted bank robber named  
4 Gerhardt Puff, who was wanted in Kansas for bank robbery, was  
5 staying at the hotel. The agents staked out the lobby, the  
6 elevator lobby of the hotel, but Gerhardt Puff came down the  
7 stairwell and shot an FBI Agent in the back and killed him  
8 before being shot in the leg himself. Puff was arrested and  
9 charged with capital murder. It was a very difficult case to  
10 defend, and no one wanted to defend him. Gus Hand got Gene  
11 Nickerson to handle the case for nothing. By now he was in  
12 his mid 30's. He was building a law firm. It was a death  
13 case, and Gene Nickerson had never handled a criminal case  
14 before. I spoke yesterday, in fact, with Jim Kilsheimer, who  
15 was the prosecutor in the case along with Ed Lombard. Mr.  
16 Kilsheimer was certainly no stranger to death cases. He had  
17 just recently successfully prosecuted Julius and Ethel  
18 Rosenberg. He remembers the Puff case vividly. He  
19 particularly recalls what a skillful trial lawyer and a  
20 wonderful person Gene Nickerson was, and how well he handled  
21 a very difficult client.

22           Judge Nickerson represented Puff at trial and on  
23 appeal. The experience was painful to him. Puff is one of  
24 the last defendants to have been put to death by the State of  
25 New York. Here is what the Circuit had to say about him

1 after that case. Note how different things are now than they  
2 were then regarding the provision of counsel for indigent  
3 defendants in Federal Courts as opposed to State Courts.

4           The Second Circuit wrote, "the defendant was  
5 skillfully represented both on the trial and on appeal by  
6 assigned counsel to whom the thanks of both Courts are due  
7 for a performance which notwithstanding the personal  
8 sacrifice involved measured up to the high traditions of the  
9 bar. Since assurance of justice depends on the arduous  
10 participation of skillful defense counsel, we take it upon  
11 ourselves to extend to counsel the thanks of a powerful  
12 Republic which has pride in the quality of its justice but  
13 which as yet in its federal establishment has lagged behind  
14 most of the States in the provision at public expense of  
15 public defenders for those charged with crimes."

16           In the late 1950's this handsome young lawyer  
17 became interested in politics. It was a very exciting time  
18 in our country. One year after John Kennedy was elected  
19 President, Gene Nickerson did the impossible: as a Democrat  
20 he was elected County Executive of Nassau County, probably  
21 the most dominant Republican stronghold in the Nation. He  
22 won that office three times. No other Democrat won it even  
23 once in that entire century. He transformed county  
24 government in America. He imported the concept of an  
25 ombudsman from Sweden, and installed a respected member of

1 the opposing political party to fill the post in Nassau. It  
2 was the first government Ombudsman in the United States. He  
3 created the County's first Office of Consumer Protection. He  
4 doubled the park land. He gave great speeches.

5 with us today is Al Conable, who had been Mayor  
6 Wagner's speech writer before he joined the new County  
7 Executive Nickerson. Al reports that one sure fire way to a  
8 great speech was to take an idea of the County Attorney, Jack  
9 Weinstein, and tone it down just a little bit.

10 when his political career ended in 1970, Judge  
11 Nickerson joined the small law firm that Judge Weinstein told  
12 you about. One of his clients there was Proctor and Gamble.  
13 Judge Nickerson was not a rainmaker of the sort some  
14 politicians who join law firms are. He brought in work but  
15 he did it, he did the work. He did some work for Proctor and  
16 Gamble. He did product liability work. Now, it sounds nice  
17 at first blush, but you have to realize Proctor and Gamble  
18 doesn't exactly make chain saws. So their product liability  
19 work isn't the sort of work you can build a firm around. On  
20 the other hand, it served up some interesting cases for him.  
21 Take, for example, Smital versus Proctor and Gamble. The  
22 lead plaintiff was Melville Smitepower. He claimed that  
23 Proctor and Gamble had marketed a defective product which had  
24 injured him grievously. The product was Crest toothpaste.  
25 Mr. Smital alleged in his complaint that as soon as he began

1 using Crest, his teeth started popping out of his jaw one by  
2 one until he was entirely toothless. He sought damages for  
3 this. After all, he lost all of his teeth. He couldn't  
4 chew. He didn't look as nice as he did before, etcetera.  
5 These were certainly not insignificant claims, but he wasn't  
6 the only plaintiff. The other plaintiff was Melville's wife  
7 Mildred Smital. She claimed that the loss of her husband's  
8 teeth damaged her too. According to the complaint, it had  
9 deprived her of the enjoyment of life.

10 It is really hard to imagine that Gene Nickerson  
11 litigated this matter. He told me about it much later. He  
12 told me how he handled it. He was his usual dignified self.  
13 He said to me "John, I could have sold tickets to those  
14 depositions, but I took the high road." In fact, he let a  
15 young associate at the firm, Harold Weinberger, take those  
16 depositions.

17 I think Harold is here today, as well.

18 Are you here, Harold?

19 MR. WEINBERGER: Yes.

20 JUDGE GLEESON: Along with a substantial contingent  
21 from the Kramer Levin firm. Harold is now a partner there.  
22 Proctor and Gamble is still his client. As I mentioned, he  
23 has a devoted following at the firm, at the Kramer Levin  
24 firm, and we are happy to see so many of them here today.

25 President Carter appointed the Judge to this Court

1 in 1977. He loved his work in this courthouse. which is no  
2 doubt a big part of the reason he continued to do it until  
3 his very last days. When I became his colleague on the Court  
4 in 1994, he wanted me to understand how fortunate I was to be  
5 on this bench, and I did. I listened carefully anyway.

6 He told me about John McGraw, the legendary manager  
7 of the New York Giants Baseball Team. McGraw was famous for  
8 saying, "Oh, to be young and a New York Giant." Judge  
9 Nickerson said to me a more appropriate saying was, "To be  
10 young and a Federal Judge."

11 After I became his colleague I saw him much more  
12 often. He regularly stopped by my chambers, and the chambers  
13 of my colleagues as well to see how we were doing. He  
14 organized our Judge's lunch every Thursday at a local Chinese  
15 restaurant.

16 I took trips to prison with him. He taught me how  
17 it was very important for us to see for ourselves where we  
18 are sending defendants. When I began the tradition of  
19 gathering my present and former law clerks at my house each  
20 year, I always invited him, and he always came. At the  
21 beginning I told him the reason I was inviting him was I  
22 wanted to be sure that when my law clerks came to my house  
23 that there was a real Judge on the premises. He never  
24 disagreed with that. My law clerks loved him and they looked  
25 forward to seeing him each year, I am sure more than they

1 looked forward seeing me.

2           There are other occasions as well and those of us  
3 in my generation don't remember him as anything other than a  
4 Judge. There were occasions at my house where I learned just  
5 how thoroughly revered he was by the people of Nassau County.  
6 At one of my large family gatherings, and he was often the  
7 only non family member there, I introduced him to a cousin's  
8 boyfriend. Paul Johnson was his name. Paul had grown up in  
9 Nassau County, and he was in elementary school when Judge  
10 Nickerson was the County Executive. After I introduced him,  
11 he pulled me aside and said, "is that is Gene Nickerson, the  
12 County Executive?" I told him, yes. I had to restrain him  
13 from going over and getting the Judge's autograph for the  
14 rest of the event.

15           On another occasion, after his physical condition  
16 made it a bad idea for him to drive at night, I arranged for  
17 a car service to bring him to our house for dinner. I didn't  
18 tell the car service anything except the last name and the  
19 address in Roslyn. We had a great time. We always did when  
20 he was around. The Judge was not ready to leave as early as  
21 I thought he would. Which was great for me and my guests,  
22 but in the meantime, I had the car service out in the  
23 driveway waiting. So I snuck out to bring him a cup of  
24 coffee and apologize. As I approached the car he rolled down  
25 the window. I stumbled in the dark and I spilled his coffee

1 right through the window on to him. I naturally expected him  
2 to blow up at me. Why not? He should have. He said, "don't  
3 worry about the coffee. Don't worry about how long I have to  
4 wait. It is an honor to just be able to bring the Judge  
5 home."

6 Judge Nickerson's achievements as a Judge are well  
7 known. He was the first to hold that people could not be  
8 struck from a jury panel because of their race. That is now  
9 the law of the land. He struck down, as Judge Weinstein  
10 mentioned, the "Don't Ask, Don't Tell" Policy that  
11 discriminates against gays in the military. In time, that  
12 will certainly become the law of the land as well. He  
13 presided over many high criminal trials, and he did so  
14 expertly.

15 But I suggest, and I believe, that an even more  
16 important measure of a Judge is how he or she presides over  
17 the thousands of little cases, cases heard in empty  
18 courtrooms, that no one cares about except the litigants  
19 themselves. He was just as attentive to those as he was to  
20 the high profile cases.

21 I asked him for advice when I became a Judge. The  
22 Lord knows I needed it. All he told me was that the most  
23 important thing to do as a Judge, and sometimes the hardest  
24 thing to do, is just listen. You will find yourself in  
25 situations where you think you know what you are doing, and

1 you think you know what the right result is, and there will  
2 be a lawyer or a litigant without a lawyer, and maybe even a  
3 criminal defendant, who doesn't seem to know what they are  
4 talking about. He said you will be tempted to stop listening  
5 or cut them off. Don't do it, he told me. You never know  
6 when you might hear something that matters, that might change  
7 your mind.

8 He was a great listener. When he sentenced people  
9 to prison, they would thank him for listening to them.

10 Judge Nickerson suffered with characteristic  
11 dignity and stoicism the heartbreaking illness of his wife,  
12 the other Judge Nickerson. I met Judge Mary Louise Nickerson  
13 only once. I was driving her husband to an event, and I  
14 picked him up at the house. She was at the beginning stages  
15 of her illness and wasn't going to join us. They both came  
16 out into the driveway as I pulled up. They called each other  
17 Judge when they spoke. She leaned into the car, and he  
18 introduced us. It was just starting to rain. It started to  
19 come down kind of hard. He was obviously concerned about  
20 that. Judge Mary Louise Nickerson just stood there in the  
21 rain. He finally said to her, "go back inside now Judge."  
22 She said, "Good-bye, Judge." It was so endearing. It was  
23 the only time in my life I had ever seen him vulnerable.

24 I know I speak for many if not all of my colleagues  
25 when I say that he was a Godsend for fellow Judges. The work

1 of a trial judge is such that the best advisor in the world  
2 is totally useless unless he or she is available on no  
3 notice, is a quick study, is decisive, and instills  
4 confidence in the person getting the advice. Judge Nickerson  
5 had every one of those qualifications.

6 We all loved his sense of humor. Judge Weinstein  
7 made reference to it. Whenever I read about how patrician  
8 and dignified he was I know, of course, that is true, he was.  
9 But I can't help thinking about the times I laughed with him  
10 when he described scenes from a Monty Python movie that he  
11 just rented.

12 Judge Amon once asked him for advice at lunch. She  
13 was exasperated. She had a criminal trial going on, and the  
14 defendant had these beefy henchmen who were sitting in the  
15 front row of the spectator section, wearing dark sun glasses  
16 all day long and just generally looking menacing, and there  
17 was a problem. Judge Amon, understandably, thought it might  
18 convey some intimidation. In the lunchroom that day she  
19 asked Judge Nickerson what should she do about it? Should  
20 she tell them to take off those menacing-looking sunglasses?  
21 He said, "forget it. Don't dignify it. Just let them wear  
22 their sunglasses. Let it drift into the wake." Later that  
23 day, after a side-bar, Judge Amon looked out in the courtroom  
24 and saw a very familiar looking gentleman in the back row  
25 watching the proceedings through dark sunglasses.

1           when I reported to him one day with some  
2 frustration that the same elevator in the Courthouse had  
3 broken down for half an hour three days in a row with people  
4 in it, he said "Well, John, perhaps we should put a magazine  
5 rack in that elevator."

6           He would visit our Courtrooms from time to time  
7 just to observe. Whenever he left, he did this to all of us,  
8 whenever he left he stopped at the rear doors. He turned  
9 towards the bench in the back where nobody could see him  
10 except the Judge who was looking at him directly. He would  
11 stop at the back and give a deep bow at the waist before he  
12 left. He always left us smiling and proud. How could you  
13 not feel proud when Judge Nickerson bows at you when he  
14 leaves your Courtroom?

15           It is impossible to do justice here to all of Judge  
16 Nickerson's many accomplishments. He was so modest that a  
17 lot of people, including me, found out about some of them by  
18 reading his obituary. Even after those accomplishments fade  
19 into the history of our community and our nation, the legacy  
20 of Judge Nickerson will be alive in many of us. He was wise.  
21 He was kind. He cared enormously about people, especially  
22 the less fortunate. He was generous, funny, graceful, and  
23 dignified. He was a hero. The more you learned about him,  
24 the bigger a hero he became. I will miss him very much.

25           Thank you.

1 (whereupon there was applause.)

2 JUDGE KORMAN: Our next four speakers represent 48  
3 law clerks that worked with Judge Nickerson over the 25 years  
4 that he served. As those of you know, these young men and  
5 woman had a wonderful opportunity to have a close, incredibly  
6 close personal and professional relationship with Judge  
7 Nickerson.

8 The first is Andrew Irving.

9 MR. IRVING: Thank you.

10 I was one of Judge Nickerson's law clerks his first  
11 year on the bench.

12 Law clerks are generally right out of law school  
13 and have spent the last three years reading a lot of cases.  
14 We get to experience judicial law making as a very human  
15 endeavor, as part of the work of the world, done by people.  
16 It was a privilege to be with Judge Nickerson as he began  
17 that work. Given the kind of person that Judge Nickerson  
18 was, it was a great treat as well.

19 The humanity and the decency that Judge Nickerson  
20 brought to bear on his work stay with me most vividly after  
21 25 years. Judge Nickerson interviewed me for the job in his  
22 office at the Kramer Levin law firm. I had grown up in a  
23 Democratic household in Nassau County in the 1950's and 60's,  
24 so it was a pretty exciting experience to be in that  
25 interview. He told me that the part of the job of being a

1 Federal District Court Judge that appeared most daunting was  
2 the duty to sentence convicted criminals to prison. It turns  
3 out that we had both recently read Tom Wickers book, A Time  
4 to Die, about the Attica prison uprising. Mr. Nickerson knew  
5 that Judge Nickerson would be exercising extraordinary power  
6 over the lives of individual human beings when he made his  
7 sentence decisions. I believe that it was his determination  
8 to remain aware always of the consequences of those decisions  
9 that motivated him to tour the prison system as frequently as  
10 he did.

11 Judge Nickerson brought simple human decency to his  
12 work. It was there in the way he treated us his law clerks,  
13 his secretaries Alice Day and Amanda Black, and his courtroom  
14 deputies, Willie Walsh and Shirley Wilson.

15 He was especially protective of the staff who  
16 worked in the courthouse cafeteria, cautioning them regularly  
17 over the perils associated with the mercury in the tuna fish.

18 We also saw that decency in the way he conducted  
19 courtroom business. Now it didn't hurt, as we all know, that  
20 he looked and sounded like a federal judge right out of  
21 central casting. But with his tone of voice and his  
22 demeanor, as we heard already, Judge Nickerson made it clear  
23 from the very beginning that he would be treating everyone in  
24 the courtroom, lawyers, their clients, jurors and spectators  
25 with respect, and that he expected everyone in the courtroom

1 to do the same with each other. It caused him obvious  
2 visible -- and sometimes audible -- pain when the lawyers  
3 went beyond the bounds of decency that he so carefully set.

4           That first year Judge Nickerson was not shy or  
5 embarrassed about making it clear that he was learning some  
6 things on the job. At his first multi-defendant drug  
7 conspiracy trial, it did not seem like it would be a hard  
8 question to decide whether there was enough evidence to go to  
9 the jury, and maybe for that reason the four very experienced  
10 defense lawyers presented a series of vigorous and creative  
11 arguments on the admissability of out of Court statements by  
12 co-conspirators, and other fine points of law that they  
13 figured Eugene Nickerson had not spend much time with.  
14 Presented with these skillful technical presentations, Judge  
15 Nickerson didn't hesitate. He would simply declare a recess  
16 for 30 minutes. We would go back to chambers. We would read  
17 and talk through the cases. Then he would go back to the  
18 courtroom, announce his ruling briefly, and then the case  
19 would go on. It didn't take long for those recesses to  
20 become less and less frequent.

21           Simple human decency was a value [that] not  
22 surprisingly also played a big part in the new judges  
23 decision. Judge Nickerson looked to Bill Phillips and to me  
24 for research and draft opinions in most cases. But he worked  
25 on the search and seizure cases by himself. Partly, that was

1 because it was only he who had heard all of the testimony and  
2 observed all of the witnesses in the Courtroom. Bill and I  
3 were in chambers unpacking two and three years worth of books  
4 and pocket parts, and deciding the difficult issue of who  
5 would take the cases with the even docket numbers. But more  
6 importantly, I think Judge Nickerson had some things on his  
7 mind that he wanted to say about the Fourth Amendment. So he  
8 read through all of the cases, and he thought them through in  
9 private.

10 In one of his earliest opinions he wrote that when  
11 the police claimed that the defendant had consented to a  
12 search, the issue was not whether that consent was a  
13 voluntary act. Rather, he wrote, the issue is whether "the  
14 government has played an ignoble part" in obtaining that  
15 consent. Think about that. The government has a duty to be  
16 noble. That principle not only informed his analysis of  
17 claims against the government. It was at the heart of his  
18 work as a Judge.

19 Now all this decency did not make this experience  
20 some kind of a solemn bit of business. I mean, this is Judge  
21 Nickerson we are talking about here. He had fun with the  
22 lawyers. He had fun talking with us about the lawyers. He  
23 had fun with the ideas. We had fun in the Courtroom. I  
24 actually heard him call his wife "Judgee" on the phone.

25 I recall one day when he even had some fun with one

1 of the exhibits. It seemed that the Rolling Stones were  
2 playing a couple of concerts at the Nassau Coliseum that  
3 year. The Coliseum is, of course, conveniently located in  
4 the Eastern District of New York. The lawyers came to Court  
5 seeking an injunction against the distribution of allegedly  
6 counterfeit tee shirts and other merchandise. Anticipating  
7 that Judge Nickerson may not have been familiar with the  
8 tongue and lips logo of the Rolling Stones, which was a key  
9 concept in this difficult case, the lawyers brought several  
10 albums with them to Court that featured the logo. The one  
11 they chose to hand up to Judge Nickerson was this one subtly  
12 entitled "Sticky Fingers". I don't do impressions. The  
13 Judge asked me up to the bench. I told him that I thought it  
14 was a good album. He wasn't that interested in that, but the  
15 zipper caught his eye. He held up the evidence in front of  
16 the Court, found out that the zipper worked, and looked out  
17 at everyone with the sly, I guess, look with an eyebrow or  
18 two raised, a look that I think all of us remember.

19 what I took away from that year with Judge  
20 Nickerson was a confidence and a sense that Courthouses and  
21 Courtrooms however imposing they may be can be places where  
22 decent people could do good work to resolve disputes, enforce  
23 the law, and make the law in a way that elevated our  
24 profession and the society that we live in. I expect that  
25 not only my fellow law clerks but really everyone who

1 appeared before Judge Nickerson took away that same lesson.

2 (Whereupon there was applause.)

3 CHIEF JUDGE KORMAN: The next speaker is Andrew  
4 Weissman. He was the Law Clerk for Judge Nickerson from 1984  
5 to 1985.

6 MR. WEISSMANN: Thank you Chief Judge Korman.

7 As one of four law clerks speaking today, I was  
8 told that we should all keep our remarks to about three  
9 minutes. At first I thought that seemed like a daunting  
10 task. But then I thought it is actually is remarkably  
11 fitting for a tribute to Judge Nickerson, that we keep  
12 everything short and sweet.

13 As Chief Judge Korman mentioned when we started, if  
14 it was up to Judge Nickerson we wouldn't have, as he would  
15 put it, the tomfoolery of being all here today. But the next  
16 best thing is a short speech.

17 As each of the Judge's Law Clerks could tell you,  
18 one of the jobs that we have in drafting civil motions and  
19 decisions for him, was to spend the day before we gave him  
20 the decision trimming each extraneous word. We then would  
21 dutifully bring in the decision to the Judge, and it would  
22 come back remarkably shorter. A decision that resulted was  
23 not dissimilar from Haiku. A typical decision from Judge  
24 Nickerson consisted in civil cases to something like this.

25 "The motion, it has been made, and considered, and

1 now is denied." As the Judge often remarked to us, you can  
2 cover so much ground with the word "denied."

3 Last month the Judge's many law clerks over the  
4 years and two of his daughters, who are here today, got  
5 together to reminisce about our experiences with the Judge.  
6 We talked about his various traits, the Judge's sense of joy,  
7 and his work, and his people, and his wonderful sense of  
8 humor. That is what I will talk about today.

9 Since the Judge took the bench, his law clerks  
10 would get together with him twice a year. Once, we would  
11 throw a dinner for him and his chambers, and once a year he  
12 would throw a celebratory July party, where he would invite  
13 his law clerks and their significant others to his home in  
14 Long Island.

15 That effort was a part of trying to continue what  
16 was a very close bond that law clerks in general and we have  
17 with Judge Nickerson. As many people here know clerking is a  
18 unique experience where you spend your year just the three of  
19 you, basically, the Judge and two Law Clerks. In Judge  
20 Nickerson's case that closeness was increased by his practice  
21 of having lunch with us everyday. When I learned that, I  
22 remember my co-clerk and I were a little daunted by the  
23 prospect of eating with him everyday. We thought this was a  
24 great opportunity to be able to speak with him informally and  
25 raise issues with him. But soon we learned something far

1 more important about those lunches, because we were expected  
2 to eat the food that the Judge ate.

3           As we recalled last month, when we got together,  
4 various foods were good and various foods were bad. Meat was  
5 bad. Chocolate was bad. Fried food was bad. But as Andrew  
6 Irving was commenting, soup and fish were good. But not all  
7 fish. According to the Judge, you could eat small fish but  
8 you could never eat big fish. Big fish were, he said, an  
9 abomination. The tuna is a bottom feeder, and is to be  
10 avoided.

11           There were a number of stories that we told last  
12 month. One of my co-clerks reminded me just today when the  
13 judge left at 5:30 sharp, he would turn to Andrea and me and  
14 say "well, I will see you tomorrow if all goes well." He did  
15 that each and every day.

16           Many of us recall when we appeared in front of  
17 him -- I had the privilege of doing that as an Assistant  
18 United States Attorney and his frequent comments to Shirley  
19 Wilson he would say, "Ms. Wilson, I hear the rattling of  
20 chains. We must have a visitor. Please see if he would care  
21 to join us."

22           A final story of an experience that I had with the  
23 Judge was when I appeared in front of him in connection with  
24 an organized crime case: The case concerned a mobster  
25 accused of murder. He was represented by an attorney of some

1   repute, who was in the process of being referred for  
2   prosecution by a Judge for violating an order not to speak to  
3   the press. In a Curcio Hearing, Judge Nickerson was  
4   explaining to this defendant, a Mr. Iannaci, which, of  
5   course, the Judge would pronounce in fluent Italian. The  
6   conflict that was posed by having this particular attorney  
7   represent him. He explained that there was a government  
8   investigation, and that his attorney could be accused of  
9   currying favor with the government. He said, "you are  
10  entitled under the law to have an attorney who doesn't have  
11  this..." Uncharacteristically, the Judge faltered, and he  
12  was trying to find the right word. But Mr. Iannaci looked up  
13  and said "an attorney without that credential?" And the  
14  Judge, of course, laughed, as he frequently would, because he  
15  just did not take himself that seriously.

16           As his Law Clerks can tell you, clerking for the  
17  Judge and appearing in front of him were filled with such  
18  moments: The Judge enjoyed what he was doing, and he enjoyed  
19  the profession of lawyering, where, as he frequently reminded  
20  us, attorneys are retained and not hired.

21           Our remembrances last month were laced with humor  
22  and deep affection and admiration for Judge Nickerson. The  
23  stories we told each other reflected his joy in being a  
24  Judge, his joy for learning about the law, and about people.  
25  We each remarked on his profound empathy for other people,

1 particularly, the disadvantaged.

2           In addition to all of these qualities, as one Law  
3 Clerk noted, the Judge always left you wanting more of him.  
4 He was in control of the end of a conversation with him. He  
5 left you feeling like you wanted to and could stay forever  
6 listening to him. He was that rare individual whose guidance  
7 and judgment and wisdom I sought out and that other law  
8 clerks did as well.

9           That is a rare commodity, as we all go through life  
10 with decisions and self doubts and setbacks. For me and my  
11 fellow clerks, he was a rudder and a mentor and a role model.  
12 I will miss him terribly. He has left us all wanting more of  
13 him.

14           (Whereupon there was applause.)

15           CHIEF JUDGE KORMAN: The next speaker is Elizabeth  
16 Sacksteder. She was Judge Nickerson's Law Clerk from 1988 to  
17 1989.

18           MS. SACKSTEDER: I would like to talk about an  
19 opinion that Judge Nickerson wrote during my clerkship with  
20 him. It isn't one of the famous ones, but I have always  
21 remembered it because it exemplifies some of the qualities  
22 for which I most loved and admired him. It is called  
23 Burnette v. Bowen.

24           The Judge wrote this opinion without any help from  
25 his clerks because he couldn't stand to waste a minute. He

1 was haunted by the specter of all of the litigants out there  
2 awaiting decisions from his chambers. He used to admonish  
3 us, "We must preserve our level of superficiality," by which  
4 he meant, "We can't afford to indulge ourselves in writer's  
5 block or chasing every intellectual puzzle to its solution;  
6 we have to just get on with it. People are waiting for us."  
7 So whenever he had a free moment, he would wander into the  
8 room where he worked and say, "Neal? Liz? Do you have a  
9 nice Social Security case for me? Or perhaps a habeas  
10 petition?" And we would gratefully hand him a file that we  
11 considered the dregs of the docket. That is how I came to  
12 give him the file in Burnette.

13 But when he handed me back the file a few hours  
14 later, with his characteristically spare, direct opinion  
15 attached, his eyes were flashing. I could see that he was  
16 very angry. He said, "Let's publish this one." This  
17 surprised me because he rarely published. He considered  
18 F. Supp. a monument to the ego of the Federal District  
19 Judges. I started to read the decision, and I began to  
20 understand. It begins like this.

21 "This case is about plaintiff Leon E. Burnette, an  
22 offset printing press operator for 24 years who, in the  
23 opinion of his treating doctor, became totally disabled  
24 primarily due to diabetic neuropathy. Disregarding both the  
25 opinion of the government consulting doctor examining Mr.

1 Burnette that he had a loss of feeling in his hands and feet  
2 and the opinion of the treating physician that if Mr.  
3 Burnette 'operates machinery he may get his hands caught and  
4 be pulled into the mechanism,' the defendant Secretary of  
5 Health and Human Services concluded that Mr. Burnette was not  
6 disabled and could return to his job as an offset printing  
7 press operator."

8           That beginning is all Nickerson. He starts with  
9 the human being whom the case is about. In all of his years  
10 on the bench, he never lost his empathy and his compassion  
11 for each of the diverse people who came to the Court seeking  
12 justice. In the Jane Able "Don't Ask, Don't Tell" case, he  
13 said: "A Court should ask itself what it might be like to be  
14 a homosexual." That is how he approached every case. He put  
15 himself in the shoes of Leon Burnette and asked himself what  
16 it would be like to be a sick and aging printing press  
17 operator with no other skills who could not work at his trade  
18 without risk of being mangled by a machine.

19           The decision continues as follows: "As will appear,  
20 there is no substantial evidence to support the Secretary's  
21 conclusion. Sadly, this decision does not represent an  
22 isolated aberration by the Secretary. For some time this  
23 Court has been concerned about the apparent unfairness of the  
24 Secretary in assessing claims for disability. Mr. Burnette's  
25 case is only one of what the Court regards as a long series

1 of shocking injustices perpetrated by the Secretary on  
2 applicants for benefits. Case after case appearing before  
3 the Court reveals a determined predisposition on the part of  
4 the Secretary and his agents to decide that claimants are not  
5 disabled without any substantial evidence to support the  
6 decisions.

7           Persons who claim social security benefits are  
8 entitled to a fair and objective analysis of the evidence in  
9 the record... It is clear that for the last several years  
10 many claimants have not been treated fairly or objectively.  
11 The instances are so numerous as to call into question the  
12 intellectual integrity of the administration of the entire  
13 program."

14           These opening paragraphs illustrate a quality of  
15 Judge Nickerson that I can only call his guts. The same man  
16 who taught himself to play championship-level squash  
17 left-handed after his right was crippled by polio, who  
18 persevered when sick and old and in pain through an unending  
19 series of Louima trials and associated criticism and  
20 reversals because he felt it was his duty to do so, was the  
21 man who spoke truth to power on behalf of those who could  
22 not.

23           when disabled schoolchildren in New York City were  
24 denied an appropriate education, he made the City fix it.  
25 when a black man was convicted by an all-white jury from

1 which the prosecution had excluded all black jurors, he told  
2 the United States Supreme Court that discriminatory exercise  
3 of peremptory challenges by the prosecution was  
4 unconstitutional, and the Court's precedent to the contrary  
5 should be overruled.

6           When the Clinton administration justified  
7 discrimination against homosexual servicemen and women based  
8 on sophistic distinctions between "orientation" and  
9 "propensity," or "speech" and "acts," the Judge, a lifelong  
10 Democrat, exposed the hypocrisy underlying the "Don't Ask,  
11 Don't Tell" policy, observing that "heterosexuals and  
12 homosexuals alike would be entitled to think it demeaning and  
13 unworthy of a great nation to base a policy on pretense  
14 rather than on truth."

15           And so Judge Nickerson stood up for Leon Burnette  
16 and called the Secretary of Health and Human Services  
17 publicly to task for what the Judge rightly called a  
18 "shocking injustice." Long after those of us who were  
19 privileged to experience at first hand the judge's  
20 incomparable wit, his kindness, his generosity, his  
21 mentorship, are ourselves gone, I think he will be remembered  
22 for this, for the integrity and the courage that underlay his  
23 entire judicial career.

24           (Whereupon there was applause.)

25           CHIEF JUDGE KORMAN: The next speaker is Lawrence

1 wu, who clerked for Judge Nickerson's from 1999 to the year  
2 2000.

3 MR. WU: When I began my clerkship, I was looking  
4 forward to a meaningful year with big cases and tough issues.  
5 And we had them: the second Louima trial, tricky civil  
6 cases, some very loony pro se litigants. If the goal was to  
7 walk away from the clerkship a sharper, better informed  
8 lawyer, all of the ingredients were there. But these are not  
9 the type of things remember from my clerkship. The lawyers,  
10 the issues, the cases: They've all faded. What has lasted,  
11 though, and what has been more important to me than anything  
12 from my year with the Judge, was simply the experience of  
13 learning from him how to be a better person.

14 To be honest, when I began clerking I was actually  
15 quite worried that I might not get along with the Judge. It  
16 was my first real job; I feared I was going to mess something  
17 up, like miss a case or draft a silly opinion; and I've  
18 always had difficulty getting along with authority figures.  
19 But the Judge soon put all that to rest. He was so patient  
20 with me, and showed me so much loyalty, I soon realized that  
21 the Judge was very different from other authority figures I  
22 had previously known.

23 In particular, what struck me the most about the  
24 Judge, was his tremendous, open warmth and how much he  
25 genuinely cared for people. In my early days as a clerk, I

1 often would walk into the Judge's office to discuss  
2 something. I would still be kind of tip-toeing and jittery,  
3 and he would turn up from his work and look so glad to see me  
4 every time. "Come in, come in", he would say, in his warm,  
5 gentle way, and then do his best to make me feel comfortable.  
6 And so I learned: there was no intrusion with him, there was  
7 only welcome. The Judge was always looking to help. And if  
8 you ever spoke with him, you always walked away feeling that  
9 he wanted the best for you.

10 I was also influenced greatly by the Judge's  
11 commitment to humanity. As a clerk, there is a tendency to  
12 view cases merely as puzzles to be solved or items on a to do  
13 list, and the parties can tend to become somewhat incidental.  
14 But the Judge had a laser-like focus on the effect of the  
15 laws on person, and always made us think about what the right  
16 result should be for each person. It wasn't a political  
17 philosophy or a matter of political affiliation, though we  
18 spent many lunches complaining about Republicans and their  
19 shenanigans. It was because the Judge cared about people.  
20 And if you sat down with him for but one lunch, you learned  
21 that every fiber in his being was bent toward doing good and  
22 what was right for people.

23 Then there was the Judge's courage. In chambers,  
24 we knew that the Judge was suffering from a lot of physical  
25 pain every day. We had to help him climb up and down the

1 three steps to his chair on the bench. And you could see  
2 from his movements that often it hurt him to stand, to walk,  
3 and even to sit. The Judge of course would hardly mention  
4 what he endured. But he came in every day to perform his duty  
5 and be in a position to help people as a federal judge. And  
6 nothing, not even his pain or even the added stress of the  
7 Louima trial, could change his good nature. When the New  
8 York Post journalist kept printing malicious attacks against  
9 the Judge and falsely reported that the Judge fell asleep  
10 during the Louima trial, I wanted to go over and knock some  
11 sense into that journalist's head. But the Judge just  
12 shrugged it off and said, "Pity them, rather." And so we  
13 did.

14 I expected a lot of things when I began my  
15 clerkship. But I did not expect that the Judge would become  
16 a father figure to me, really my first and the only complete  
17 role model I have ever had in life. I have never admired  
18 anyone so much as I admired the Judge, and I am a fool and am  
19 sorry for never having told him this. At least I can tell  
20 his family now.

21 For someone like myself who's never had a father, I  
22 sometimes wondered what it would have been like to grow up  
23 with a father like the Judge. I guess one would have felt  
24 special, loved, and lucky. I know I did.

25 Thank you.

1 (whereupon there was applause.)

2 CHIEF JUDGE KORMAN: Judge Nickerson's daughter Mal  
3 has agreed to say a few words.

4 MAL NICKERSON: Perhaps there is no need for  
5 anybody in the family to talk about dad, because you may know  
6 it already. You know about his interest he had for the  
7 Rangers, for the Yankees, for Woody Allen movies, the Monty  
8 Python Flying Circus.

9 Some of you know of his discovery  
10 one evening last fall of Richard Pryor, whom he proclaimed a  
11 "genius." He stayed up late to watch a Richard Pryor comedy  
12 on television. Many of you already know that he once gave a  
13 speech in Rome in Italian to a group of Magistrates and got  
14 laughs at the appropriate places.

15 You may possibly know, as we do, that many of his  
16 clerks do quite good imitations of him. And, of course,  
17 anyone whoever had a meal with dad seems to be the  
18 beneficiary of his nutritional advise and his insistence on  
19 the importance of eating low on the food chain.

20 You know, of course, that he was very conscious of  
21 taking care of one's health. So we think there is one thing  
22 he did do that will surprise you. He was not a smoker, but  
23 he could blow smoke rings. When my sisters and I were very  
24 much younger, once a year he would light up a cigar and amaze  
25 us with one perfect smoke ring after another.

1           As you know, dad was interested in people and it  
2 seems that they were interested in him. One of his clerks  
3 (you know who you are) told us recently that during her year  
4 there she saw a constant stream of people coming into the  
5 office to see dad. They were his fellow Judges, former  
6 clerks, court employees, people who used to be court  
7 employees. What were they coming to do?

8           People would introduce dad to their new spouses.  
9 They would bring their parents to meet him. They would ask  
10 him to kiss their babies. In fact, she said, to quote her  
11 exact words, "It was like he was the last Godfather."

12           We are sure that you also know of his keen interest  
13 in all of you, his esteem for his colleagues on the bench,  
14 his appreciation of his present and former office staff, his  
15 pleasure and delight in each of his law clerks, his regard  
16 for all of the people who worked in this building.

17           There was also his reliance on his deep affection  
18 for Shirley Wilson. Who dad described as both an outstanding  
19 case manager and an outstanding human being.

20           (Whereupon there was applause.)

21           Those of you who have been to the house know that  
22 there are just thousands of photographs all over the place.  
23 At the house is Shirley's wedding picture. It sat on the  
24 table among the photos of the rest of the family. In terms  
25 of family, there is also the bond that dad had with his 48

1 clerks. This is how we feel about it. My sisters and I are  
2 his biological children, and you are his judicial children.  
3 My sisters and I and all of us in dad's family would like to  
4 thank all of you for your collegiality, your professionalism,  
5 your hard work, your friendship, and your kindness to him,  
6 everything that you did for dad in the last 24 years. He  
7 appreciated all of you very much and so do we.

8 Thank you.

9 MR. HEINEMANN: All rise. This Special Session is  
10 adjourned without date.

11 (Special concluded at 5:52 p.m.)

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